

**REMARKS**

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. In the Office Action dated August 8, 2009, pending Claims 1-20 were rejected in a non-final Office Action following a pre-appeal conference. In response, Applicants filed this Amendment and respectfully request reconsideration and withdrawal of the rejections presented in the outstanding Office Action.

On December 4, 2009, Applicants' representatives conducted a telephone interview with the Examiner. The outstanding Office Action was discussed along with the claims and the cited reference. While no specific agreement was reached with regard to the issues presented in the Office Action, it was agreed that Applicants and the Examiner would conduct another interview subsequent to Applicants' submission of a formal response and prior to issuance of any further Official Action by the Examiner.

It should be noted that Applicants are not conceding in this application the claims amended or cancelled herein are not patentable over the art cited by the Examiner, as the claim amendments and cancellations are only presented for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to or cancellation of any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended or cancelled claim.

**Rejections under 35 U.S.C. § 101**

Claims 1-20 stand rejected under 35 U.S.C. § 101 because, according to the Examiner, the claimed invention is directed to non-statutory subject matter. Applicants respectfully request reconsideration and withdrawal of these rejections.

The Examiner cites the current rule regarding statutory subject matter with regard to method claims. *Office Action*, p. 3. However, this is not the rule with regard to computer readable medium claims, as that issue had been decided elsewhere. *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995). In any event, Applicants remain of the view that the claims, as previously presented, were directed to statutory subject matter, properly interpreted.

Nonetheless, Applicants have amended the claims herein solely in an effort to facilitate prosecution. Applicants respectfully submit that all remaining independent claims, as well as the newly presented claims, are fully compliant with the requirements of 35 U.S.C. § 101. Support for these amendments can be found throughout the specification, particularly at p. 5, lines 5-7, p. 6, lines 16-28, and p. 15, lines 19-26.

Accordingly, Applicants respectfully request reconsideration and withdrawal of these rejections under § 101. In the event that the Examiner finds further issues with the claims and § 101, Applicants invite the Examiner to make Applicants' representatives aware of such concerns in the forthcoming interview, as Applicants would be happy to discuss with the Examiner in any reasonable alternatives with regard to § 101 compliance.

**Rejections under 35 USC § 102**

Claims 1-20 stand rejected under Section 102(b) as being unpatentable over U.S. Patent No. 5,987,140 to Rowney (hereinafter “Rowney”). Reconsideration and withdrawal of these rejections are hereby respectfully requested.

As the Examiner is no doubt aware, “...unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to provide prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.” *Net MoneyIN Inc. v. VeriSign Inc.*, 545 F.3d 1359 (Fed. Cir. 2008). Applicants respectfully submit that the cited reference did not anticipate the claim.

As an initial matter, Applicants point out that the Examiner has not addressed language in the independent claims. For example, the Examiner has not specifically address the language of the final wherein clause in claim 1. The Examiner has provided no reasoning as to why this language has been or should be disregarded. Applicants respectfully submit that it is clear that the Examiner failed to consider this claim language by reviewing the “Response to Arguments” section (p. 2-3) of the Office Action.

In this regard, Rowney is clearly directed to a different system configuration and method to that of the claims, even as previously presented. As best understood, a client and merchant directly communicate with one another, the communication can be encrypted. *Rowney*, Col. 11, lines 49-55 (stating “At this point, customer computer system 120 and merchant computer system 130 have: 1) negotiated an encryption scheme that may be commonly employed in further communications, and 2) have communicated

to each other a set of encryption keys that may be used to decrypt further communications between the computer systems.”). Once in communications, payment information is directly given to the merchant. *Rowney*, Col. 11, lines 59-63 (stating “Among the messages communicated by customer computer system 120 to merchant computer system 130 may be messages that specify goods or services to be ordered and payment information, such as a credit card number and related information...”). A reason Rowney may teach passing such information is that the merchant can be certified. *Rowney*, Col. 11, lines 13-17. Much the same can be gathered by quickly looking at FIG. 1B and/or the abstract.

This stands in stark contrast with the instantly (or previously) claimed invention wherein **the merchants** that consumers wish to interact with **are not trusted** (i.e. are not trusted third parties), so a **trusted third party** (which is not a merchant) is utilized by the customer in order to provide more secure and anonymous communications with the merchants, and avoid the need to certify and/or trust various merchants. *Specification*, Figure 1 and accompanying text. In and among other features, a non-limiting and exemplary embodiment of the invention provides a:

computerized method includ[ing] the steps of (a) permitting the user, using a browser and a low resource-intensive protocol to access the trusted third party broker in order to request broker services; (b) the trusted third party broker gathering information from web servers of the merchants offering competitive products which the broker believes may satisfy the user's request; (c) the browser presenting an interactive window to the user which allows the user to compare the differences between the competitive products and choose between the competitive products; (d) the user choosing between the competitive products, thus selecting a merchant and issuing a payment order through the trusted third party broker for the benefit of the merchant; (e) the trusted third party broker transmitting the payment order to the merchant using a highly secure payment protocol, thus paying the merchant on behalf of the user; and (f)

the merchant and bank cooperating using, for example, the SET protocol, enabling the merchant to securely receive payment from the bank.

*Specification*, p. 4, lines 7-20. Applicants respectfully submit that this is quite different from the “payment gateway” relied upon by the Examiner in the Office Action.

Nonetheless, in view of the extended prosecution of this application, Applicants have amended the claims solely in an effort to facilitate expeditious prosecution of this application. For example, claim 1 now recites, *inter alia*:

*receiving, at a certified trusted third party, one or more requests for product of one or more merchants from one or more user computing devices utilizing a first network link between the one or more user computing devices and the certified trusted third party, wherein the first network link utilizes a communication protocol; and providing a secure payment option to users of the one or more user computing devices, wherein the secure payment option comprises: transmitting one or more order requests from the certified trusted third party to the one or more merchants utilizing a second network link between the certified trusted third party and the one or more merchants, the one or more order requests from the certified trusted third party to one or more merchants corresponding to the one or more requests for product from the one or more user computing devices; and processing payment with one the one or more merchants utilizing the second network link utilizing a payment protocol which is more secure than the communication protocol; and wherein only the certified trusted third party need know an identity of one or more users issuing the one or more requests.*

Claim 1 (emphasis added). Claim 7 has been amended to recite, *inter alia*:

*presenting a user with an interface on an electronic device from which the user can browse and send on a first network link utilizing a communication protocol one or more requests to a certified trusted third party for information concerning one or more products of one or more merchants; receiving, on the first network link, information corresponding to the one or more requests; presenting the information to the user via an interactive window; and providing a secure payment option to the user, wherein the*

*secure payment option comprises: sending a user payment order to the certified trusted third party in response to user selection of a product offered by a merchant; and receiving confirmation of payment from the certified trusted third party; wherein the user need only communicate with the certified trusted third party on the first network link to complete the secured payment.*

Claim 7 (emphasis added). Support for these amendments can be found throughout the specification, particularly at p. 4, lines 7-20, FIG. 3 and FIG. 6(a-c) (and accompanying texts). Claims 10-20 have been cancelled herein.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 102.

#### **Newly Presented Claims**

Claims 21-30 are newly presented herein. Support for these amendments can be found throughout the specification, particularly at p. 4, lines 7-20 p. 5, lines 5-7, p. 6, lines 16-28, p. 8, line 16-p. 9, line 29, p. 15, lines 19-26, FIG. 3 and FIG. 6(a-c) (and accompanying texts). Applicants respectfully submit that these claims are clearly distinguishable from the art of record and the state of the art and are thus in condition for allowance.

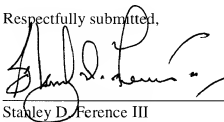
#### **Request for Telephone Interview**

Applicants are submitting herewith a request for telephone interview.

**Conclusion**

In summary, it is respectfully submitted that the instant application is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stanley D. Ference III', is written over a horizontal line.

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